

LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
MICKELSON CRIMINAL JUSTICE CENTER
Commission Conference Room
Pierre, SD
March 4, 2020

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order by Chairman Natvig on March 4, 2020, at the hour of 8:30 a.m. in the Commission Conference Room of the George Mickelson Criminal Justice Center in Pierre, South Dakota.

Roll call was taken with the following members responding: Tom Wollman, Lincoln County State's Attorney; Andy Howe, Clay County Sheriff; Robert Perry, Special Agent, FBI; Randall Rosenau, Lawrence County Commissioner; and Gary Gaikowski, Sisseton-Wahpeton Chief of Police. Jason Ravensborg, Attorney General; and Rick Miller, SD Highway Patrol, were called to the Capital Building. Commission Member Miller joined the meeting at 9:30 am and Commission Member Ravensborg joined the meeting at 1:00 pm. Others present included David Natvig, Chairman; Chad Mosteller, Executive Secretary; Kim Knecht, Assistant Training Administrator; and Law Enforcement Training Staff. Commission Members Matt Burns, Sioux Falls Chief of Police; Jo Vitek, Lake Area Technical Institute; and Steve Allender, Rapid City Mayor, were absent.

In accordance with SDCL1-25(1), official meetings open to the public, time was allowed by Chairman Natvig for public comments. The floor was open for public comments of which there were none.

Chairman Natvig started the order of business with the review of the previous meeting's minutes.

- November 13, 2019 minutes of the South Dakota Law Enforcement Officers Standards and Training Commission were reviewed by members. The record will reflect Commission Member Miller joined the meeting at 9:30 am, having reviewed the same, the minutes were approved on a **motion** by Commission Member Perry, **second** by Commission Member Gaikowski.

The following business items were reviewed by members. Items were tabled until Commission Member Miller returned to the meeting.

The Sioux Falls Police Department is requesting financial assistance to host the following grant. Todd Runyan, Sioux Falls Police Department School Resource Officer, is before members via telephone to answer any questions members may have.

- *NASRO [National Association of School Resource Officers] Basic 40-Hour block of instruction.* The seminar will be provided by NASRO and will be conducted in June 2020. The course provides tools for officers to build positive relationships with both students and staff. The Sioux Falls Police Department is requesting funding of \$7,425.00 to cover the training. The seminar requires a minimum of 15 attendees. The maximum number of attendees would be around 30. There are several potential benefits that come from properly training our state's officers that work with our youth. Minimizing the risks, both civil and criminal for the officers as well as their

agencies/communities; increase the safety of our schools; properly training SROs reduce the number of young people being referred to the courts, instead trying to find alternatives to this path whenever possible; and possibly the most important is fostering positive relationships between the SRO and the school community.

The record will reflect Commission Member Miller joined the meeting at 9:30 am, having reviewed the same, a **motion** was made by Commission Member Rosenau to approve the grant request, **second** by Commission Member Howe, motion **approved**.

Executive Secretary Mosteller reviewed the following reciprocity requests:

Justin Richardson, Custer County Sheriff's Office, completed the Community College of Aurora's 689-hour Law Enforcement Training Academy in December 2002 and received State of Colorado certification. Richardson joined the Air Force in 2003 and applied to the Colorado POST in 2010 for recertification. Certification renewal requires completion of the necessary paperwork, successful completion of the one-day test out which includes a written exam and three skills exams. Applicants must demonstrate proficiency in arrest control, driving, and firearms. Upon successful completion of all requirements, no new certificate will be issued. The POST certificate will have the same certification number and issue date as the first certification. Richardson's certification is active. The background check revealed no adverse information. Richardson successfully completed the reciprocity exam in August 2019. Richardson is scheduled to attend the April 2020 reciprocity training week.

Corey Sura, Game, Fish & Parks, completed the Seasonal Park Law Enforcement Range Training at the Vermillion Community College in December 2017. Students must have completed a criminal justice related degree to apply for the Seasonal Park Law Enforcement Ranger Training (SPLERT). This program is one of only seven federal type II law enforcement certifications and the only program nationwide to complete both Minnesota State and federal law enforcement requirements. There are no disciplinary records in his file, he was not placed on scholastic probation; nothing derogatory; and graduated with high honors. Sura passed the POST Board's exam and completed all Board requirements. Sura is eligible for a peace officer license. The background revealed no adverse information. Sura successfully completed the reciprocity exam in November 2019. Sura is scheduled to attend the April 2020 reciprocity training week.

Justin Isaacson, Sisseton Police Department, completed the Law Enforcement Program at Alexandria Technical and Community College in May 2018. Isaacson passed the POST Board's exam and all requirements and is eligible for a peace officer license. The background check revealed no adverse information. Isaacson successfully completed the reciprocity exam in January 2020. Isaacson is scheduled to attend the April 2020 reciprocity training week.

Dylan Westerbur, Minnehaha County Sheriff's Office, completed the Law Enforcement Program at Alexandria Technical and Community College in May 2018. There were no disciplinary actions. Westerbur passed the POST Board's exam and completed all requirements and is eligible for a peace officer license. Westerbur is scheduled to attend the April 2020 reciprocity training week.

The record will reflect Commission Member Miller joined the meeting at 9:30 am, having

reviewed the reciprocity requests, a **motion** was made by Commission Member Howe to approve the reciprocity requests contingent upon successful completion of the April reciprocity training week, **second** by Commission Member Miller, motion **approved**.

The following canine teams have met the requirements of certification or recertification:

- Canine Team **Cody Jansen and K9 Rex**, SD Highway Patrol, have met the requirements for Drug Detection certification on November 7, 2019; and have met the requirements for Patrol Dog certification on December 27, 2019;
- Canine Team **Shane Johnson and K9 Ryker**, SD Highway Patrol, have met the requirements for Drug Detection certification on November 7, 2019;
- Canine Team **Austin Schmitz and K9 Luna**, SD Highway Patrol, have met the requirements for Drug Detection certification on November 7, 2019;
- Canine Team **Seth Bonnema and K9 Gina**, Brookings Police Department, have met the requirements for Drug Detection certification on November 8, 2019;
- Canine Team **Garrett Harmon and K9 Igor**, Chamberlain Police Department, have met the requirements for Drug Detection certification on November 8, 2019;
- Canine Team **Christopher Koltz and K9 Blitz**, SD Highway Patrol, have met the requirements for Drug Detection certification on November 7, 2019;
- Canine Team **Manuel Langstraat and K9 Arras**, Brookings County Sheriff's Office, have met the requirements for Drug Detection certification on November 8, 2019; and have met the requirements for Patrol Dog certification on December 27, 2019;
- Canine Team **Andrew Steen and K9 Thor**, SD Highway Patrol, have met the requirements for Drug Detection certification on November 8, 2019;
- Canine Team **Deanna Johnson and K9 Dina**, SD Highway Patrol, have met the requirements for Drug Detection certification on November 7, 2019;
- Canine Team **Trent Heuertz and K9 Zeke**, SD Highway Patrol, have met the requirements for Drug Detection certification on November 7, 2019;
- Canine Team **Cody Nachreiner and K9 Spike**, Sioux Falls Police Department, have met the requirements for Drug Detection certification on November 8, 2019; and have met the requirements for Patrol Dog certification on December 27, 2019;
- Canine Team **Chad Westrum and K9 Robi**, Sioux Falls PD, have met the requirements for Drug Detection certification on November 8, 2019;
- Canine Team **Grant Van Voorst and K9 Biko**, Sioux Falls Police Department, have met the requirements for Drug Detection certification on November 7, 2019; and have met the requirements for Patrol Dog certification on December 27, 2019;
- Canine Team **Shannon Irish and K9 Bram**, Sioux Falls Police Department, have met the requirements for Drug Detection certification on November 7, 2019; and have met the requirements for Patrol Dog certification on December 27, 2019;
- Canine Team **Casey Urrutia and K9 Askel**, McCook County Sheriff's Office, have met the requirements for Drug Detection certification on November 8, 2019;

- Canine Team **Elijah Rupe and K9 Tusox**, Flandreau Police Department, have met the requirements for Drug Detection certification on November 7, 2019;
- Canine Team **Jarrold Zaruba and K9 Dex**, Aberdeen Police Department, have met the requirements for Drug Detection certification on November 8, 2019;
- Canine Team **Cody Trumm and K9 Sadie**, Watertown Police Department, have met the requirements for Drug Detection certification on November 8, 2019;
- Canine Team **Garrett Bruhn and K9 Tommy**, Sioux Falls Police Department, have met the requirements for Explosives certification on November 26, 2019; and have met the requirements for Patrol Dog certification on December 27, 2019;
- Canine Team **Marcus Christianson and K9 Rita**, Rapid City Police Department, have met the requirements for Drug Detection certification on May 2, 2019;
- Canine Team **Chad Gamber and K9 Bono**, Watertown Police Department, have met the requirements for Drug Detection certification on December 6, 2019;
- Canine Team **Paul Sheldon and K9 Mack**, Jerauld County Sheriff's Office, have met the requirements for Patrol Dog certification on December 7, 2019, and Drug Detection Certification on January 31, 2020;
- Canine Team **Grant Lanning and K9 Rocco**, Lake County Sheriff's Office, have met the requirements for Drug Detection on November 8, 2019;
- Canine Team **Kyler Pekarek and K9 Reno**, Yankton Police Department, have met the requirements for Patrol Dog on December 27, 2019; and
- Canine Team **Patrick Nolz and K9 Max**, Yankton Police Department, have met the requirements for Patrol Dog on December 27, 2019.

Chairman Nativg called a brief recess and members returned to session with a quorum present. The record will reflect Commission Member Miller joined the meeting at 9:30 am, having reviewed the canine listing, a **motion** was made by Commission Member Rosenau to approve the canine requests as read by the Executive Secretary, **second** by Commission Member Perry, **motion approved**.

The next items for member consideration are requests for certification reinstatement.

Derrick DeNoyer has submitted a letter of request for reinstatement of his law enforcement certification. About August 12, 2017, Derrick consumed a large amount of alcohol, attempted to drive his vehicle to his father's home when a rear tire blew out and he went into the ditch and was injured. Derrick falsely reported to law enforcement that his car was stolen and he was jumped and assaulted. Derrick was terminated for cause from his employment. A hearing was held before the commission on February 27, 2018, to determine whether grounds existed for the revocation or suspension of DeNoyer's certification. The commission revoked Derrick's certification based on information set forth during the hearing and he engaged in conduct unbecoming of a law enforcement officer. DeNoyer is currently employed as security guard for the Rosebud Casino. There were no criminal charges brought regarding the incident. DeNoyer has worked in corrections for eight years. DeNoyer has been sober for two years. Mission Police Department is willing to hire him. **Motion** by Commission Member Perry to enter executive session to further

discuss their consideration, **second** by Commission Member Rosenau.

Members moved out of executive session and back into regular session on a **motion** by Commission Member Wollman, **second** by Commission Member Rosenau. The meeting proceedings resumed.

Motion by Commission Member Wollman having heard/read statement concerning the event in 2017 and how it and he has changed his life, and discussion to reinstate in executive session, move to deny, **second** by Commission Member Rosenau, motion **approved**.

The Lawrence County Sheriff's Office and Heather Buske have submitted letters requesting Buske be permitted to waive the 911 Two-Week Basic Academy and reinstate her 911 Telecommunicator certification. Lawrence County Sheriff Dean is before members on Buske's behalf. Buske completed the South Dakota 911 Two-Week Telecommunicator Basic Training and was certified in 2011. Her certification expired in November 2017. Since she left South Dakota, she has made multiple moves as she is a military spouse. She completed the Texas Basic Telecommunicator course and became certified in November 2012 and was employed as a dispatcher in Texas and Georgia. She has completed the 80 hours initial training at the Lawrence County Sheriff's Office. **Motion** by Commission Member Howe to approve the telecommunicator reinstatement for Heather Buske, **second** by Commission Member Perry, motion **approved**.

Noah Nyok, former Marshall County Deputy, attended the September 2019 reciprocity training week. Nyok failed to demonstrate proficiency in firearms and EVOC. Nyok did successfully complete EVOC in October 2019. Nyok was to complete the firearms qualification by the next reciprocity training session in January 2020. Nyok's reciprocity request was approved at the November 2019 commission meeting contingent upon employment and passing the firearms skills qualification. Nyok attempted his final firearms requal on November 13, 2019 and did not demonstrate proficiency in firearms. Nyok is requesting an additional chance for firearms qualification. **Motion** by Commission Member Wollman to allow for another retest, encourage you to practice. One retest and not contingent upon employment and 90 days to requalify, **second** by Commission Member Perry, motion **approved**.

Blend Fetahi along with Lt. Tony Maunu, SD Highway Patrol, are before members. Blend and the South Dakota Highway Patrol have submitted letters requesting eligibility to complete the Basic Law Enforcement Certification Training Course. Blend was enrolled in the 171st Basic Session when he made a decision that prompted his employment with the Department of Public Safety to be terminated. Blend has completed 11 weeks of the 13-week academy. Blend had been out with some friends for drinks and they had a designated driver. Upon returning to the academy, Blend left the academy in his own vehicle. The following morning Blend contacted his supervisor to report what had happened. Blend has been hired by the Highway Patrol in a nonsworn capacity at the capital and will eventually fill a Trooper position. Staff recommendation is to have Blend return for the final phase of the academy training. **Motion** by Commission Member Rosenau to allow Blend Fetahi to return in the final phase as recommended within the next two training sessions, **second** by Commission Member Perry, motion **approved**.

Corey Jonas and Meade County Sheriff Ron Merwin are present requesting reinstatement into the academy class and to remain eligible to perform his duties as a Deputy for the Meade County Sheriff's Office until Jonas can attend to complete requirements for certification.

Jonas was dismissed from the 172nd basic training session for academic failure. Jonas failed the DWI retest on Tuesday of graduation week. Jonas failed the retest by one point, one question. The exam is a national standard test and Law Enforcement Training cannot change the test. Jonas had academic struggles throughout the training session. Jonas needs to complete the final scenario testing, final exam, and case study report. He will also need to complete the DWI exam. Phase Three would start May 4th. **Motion** by Commission Member Perry to approve eligibility for Jonas condition upon successful completion of phase three of the academy, and allow him to work, **second** by Commission Member Howe, motion **approved**.

Glen Still, City of Mitchell Director of Public Safety, is present to request a waiver for all reciprocity requirements for law enforcement certification in the State of South Dakota. Rule 2:01:06:03. Reciprocity was sited. This allows the commission to waive all or any portion of the training program requirement. Under this rule, Still would like the commission to waive all requirements (exam, skills testing, and training week) and issue a certificate as a South Dakota certified officer. Still was employed with the City of Fremont Nebraska Police Department for 33 years. Still's certification is valid, but in an inactive status since his retirement. He is in good standing in the State of Nebraska. He completed the Nebraska 458-hour course study in November 1986. Still indicated he was a guest instructor at the Nebraska Law Enforcement Training Center, he is an Emergency Vehicle Operations (EVOC) instructor, and he has passed the state (South Dakota) firearms qualification course conducted by a South Dakota certified firearms instructor with the City of Mitchell in October 2019. With this, he believes that he has already demonstrated proficiency and would be eligible for a waiver in the reciprocity process. Staff would oppose this request. Executive Secretary Mosteller reviewed the reciprocity training week schedule. The skills testing, (EVOC, Firearms, and Use of Force evaluation), is to be conducted at the Training Center with academy instructors. **Motion** by Commission Member Rosenau to deny the request for the reciprocity waiver, **second** by Commission Member Miller, motion **approved**. **Motion** by Commission Member Perry upon meeting the requirements of Law Enforcement Training, (exam, skills, and training week), Still does not have to reappear before the commission again, **second** by Commission Member Wollman, motion **approved**.

The following items of business were for information only and did not require commission action:

Members were provided a copy of the WDT audit for their review.

The Sentinel application was updated and customized specific to the sentinel program.

James Flynn has continuously reached out to LET on what he can do to become eligible for certification. He is not currently in counseling. Possibly may need another evaluation, and he could become a jailor to show he can be in law enforcement.

Commission Member Perry introduced Agent Justin Lowrance, FBI, Dani Dosch, Rapid City Victim Witness Specialist and Pierre area Victim Witness Specialist, to provide a short presentation on the FBI's Victim Services Response Team (VSRT). Make aware what can be

offered in the event of a mass causality or significant crisis event, and that this team is available free of charge. The Victim Services Response Team can be requested through the local FBI Field Office.

Chairman Natvig called a brief recess and members returned to session with a quorum present.

Paul Bachand, counsel for the Standards and Training Commission, presented the following proposed rule and proposed amended rules in Chapter 2:01 and Chapter 2:05:

- 2:01:02:01. Minimum standards for employment

Amend (11) Has not had his certification revoked, ~~voluntarily surrendered certification~~ suspended, consented to decertification, had an application for certification refused, committed an act in violation of Chapter 2:01:11, or been dismissed from ~~the a~~ basic training program as a result of an act in violation of any basic academy handbook, unless the commission upon application declares the person eligible for employment or certification; ~~and.~~

Delete (12)

- Amend - 2:01:06:03. Reciprocity. The commission may waive ~~all or any portion~~ of the training program requirement of § 2:01:06:01, except firearms, EVOC, use of force, and the written reciprocity examination, upon formal application of a person requesting the waiver, ~~and a showing~~ The application must show that the person to be exempted from the training program has completed a course of equivalent content and quality in another jurisdiction no more than two years previous to the date of the appointment or has been employed within the previous two years as a certified law officer in another jurisdiction and has completed a course of equivalent content and quality. The executive secretary ~~may~~ shall administer to the applicant a written examination to determine the applicant's state of competence. Upon completion of the evaluation, ~~the commission shall issue the applicant a certificate as a certified law enforcement officer or~~ examination, the executive secretary or designee shall notify the applicant of the training to be completed before he the applicant can be certified. After the applicant successfully completes the required training and if the applicant meets the minimum standards for certification of § 2:01:02:01, the commission shall issue the applicant a certificate as a certified law enforcement officer.
- Amend - 2:01:11:08. Application for reinstatement of certification. A person whose certification as a law enforcement officer has been revoked may, after one year, apply to the commission for reinstatement of his certification.
- Amend - 2:01:11:09. Consent of decertification. A certified law enforcement officer who is subject to an investigation or pending action involving allegations of misconduct may consent to decertification. A certified law enforcement officer who consents to decertification may, after one year, apply to the commission for reinstatement of certification.
- Amend 2:01:13:18. Revocation or suspension of certification or authorization. The commission may revoke or suspend the certification of any canine team if the team violates any state law or rule of the commission. The canine team may, after one year, apply to the commission for reinstatement of certification.
- Amend - 2:01:15:05. Expiration of training. A school sentinel's training certificate of completion issued under § 2:01:16:01 ~~expires~~ becomes inactive on the last day of the twelfth calendar month following the issuance date on the certificate, unless

the school sentinel completes the continuing educational requirements in §§ 2:01:16:10 and 2:01:16:11. An inactive certification expires two years after becoming inactive.

- Proposed - 2:01:06:05.01 Dismissal from basic training course. 2:01:06:05.01. Dismissal from basic training course. A person who fails to successfully complete the basic training program due to dismissal from employment or a voluntary resignation from the basic training program, but is otherwise in compliance with the basic academy handbook at the time of dismissal or resignation, may apply to the executive secretary for reinstatement in a future basic training program so long as that individual is otherwise eligible.
- Amend 911 - 2:05:01:01. Minimum standards for employment.
(10) Has not had certification revoked, ~~voluntarily surrendered certification~~ consented to decertification, had an application for certification refused, committed an act in violation of 2:05:03:01, or been dismissed from the basic training program as a result of an act in violation of any basic academy handbook, unless the commission upon application declares the person eligible for employment or certification; and
- (11) Has not become ineligible for employment or certification as a 911 telecommunicator, as a result of ~~any proceedings involving any revocation, suspension, surrender of, or resignation or dismissal from certification, employment, or training~~, unless the commission, upon application, declares the person eligible for employment or certification in South Dakota.

Upon conclusion of review and discussion regarding rule amendments and proposed rule, a **motion** was made by Commission Member Miller to approve the packet and proceed with the rule processing and to authorize the chair to sign, **second** by Commission Member Gaikowski, motion **approved**.

Members recessed for lunch and reconvened at 1pm with a quorum present and continued with the next items of business.

The scheduled hearing of **Florence Borr**, Campbell County Sheriff's Office, was the next item of business.

Chairman Natvig turned the proceedings over to Hearing Officer Paul Bachand. This is the time and place for the hearing to determine whether Borr possesses the requisite minimum standards required to be employed or certified as a law enforcement officer under SDCL 23-3-42 and ARSD 2:01:02:04(4). Borr admitted to the allegations.

Borr's application to attend the Basic Certification Training Course was denied due to criminal history revealing concerns with facts surrounding arrests for domestic battery and disorderly conduct. Borr is present without counsel. Brent Kempema, Assistant Attorney General, is acting legal counsel for the State. Hearing Officer Bachand advised Borr of the hearing procedure and due process. The record will reflect a stenographic transcription of the hearing will be made, and copies of the transcription will be available upon request and tender of the cost thereof.

The hearing commenced with opening statements by counsel, presentation of exhibits, and questions by commission members and the hearing officer. At the end of testimony, review of documents, questions, and discussion, the evidentiary portion of the hearing concluded.

Members entered executive session on **motion** by Commission Member Perry, **second** by Commission Member Rosenau to further discuss their consideration, motion **approved**.

Members moved out of executive session and back into regular session on a **motion** by Commission Member Gaikowski, **second** by Commission Member Rosenau. Proceedings resumed before the commission. **Motion** by Commission Member Wollman, having heard the testimony of the witness here today in our proceedings, I think that I particularly found Ms. Borr's testimony to be credible and seems to be quite competent, and I would so move to make her eligible for certification and employment as a law enforcement officer in the State of South Dakota, **second** by Commission Member Miller. Commission Member Wollman added to the motion, and eligible to attend (Basic Certification Training), Commission Member Miller agreed. Motion with addition **approved** by verbal response in the affirmative by all members. **Action 7-0 Aye** (Wollman, Howe, Gaikowski, Perry, Miller, Rosenau and Ravensborg). Findings of Fact and Conclusion of Law and Order were waived. The hearing was concluded.

The Commission proceeded with the scheduled hearing on **Wesley Sudbeck**, Todd County Sheriff's Office. Chairman Nativg turned the proceedings over to Hearing Officer Paul Bachand. This is the time and place for the hearing to determine whether Sudbeck possesses the requisite minimum standards required to be employed or certified as a law enforcement officer under SD23-3-42 and ARSD 2:01:02:04(4). Sudbeck admitted to allegations.

Sudbeck's application for certification as a law enforcement officer in South Dakota was denied due to a criminal history revealing concerns surrounding the arrest for obstructing law enforcement. Sudbeck is present without counsel. Brent Kempema, Assistant Attorney General, is acting legal counsel for the State. Hearing Officer Bachand advised Sudbeck of the hearing procedure and due process. The record will reflect a stenographic transcription of the hearing will be made, and copies of the transcription will be available upon request and tender of the cost thereof. Others present included, Dave Osborn, Todd County Commissioner, Alvin Pahlke, Tripp/Todd County States Attorney, and Officer Sedlmajer, Rosebud Police Department.

The hearing commenced with opening statements by counsel, presentations of exhibits, witness testimony, and questions by commission members and the hearing officer. At the conclusion of the testimony, review of records, questions and discussion, the evidentiary portion of the hearing concluded.

Members entered executive session on a **motion** by Commission Member Perry, **second** by Commission Member Rosenau to further discuss their consideration, motion **approved**.

Members are out of executive session and into regular session on a **motion** by Commission Member Perry, **second** by Commission Member Rosenau. Proceedings resumed.

Motion by Commission Member Miller to allow Mr. Sudbeck to attend and be eligible to attend the law enforcement academy, **second** by Commission Member Rosenau. Motion **approved** by verbal response in the affirmative by all members. **Action 7-0 Aye** (Wollman, Howe, Gaikowski, Perry, Miller, Rosenau, and Ravensborg). The hearing concluded. Findings and Conclusions were waived.

There being no further business to come before the meeting body, the meeting adjourned on a **motion** by Commission Member Miller, **second** by Commission Member Rosenau, motion **approved**. The next meeting is scheduled in conjunction with the Chief's and Sheriff's conference April 22, 2020 at The Lodge in Deadwood.